

GENERAL TERMS AND CONDITIONS G-15

("Terms")

GENERAL TERMS AND CONDITIONS

The following General Terms and Conditions relate to your use of the Platform, Software and Documentation and form an integral part of the Agreement between the Parties.

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in Schedule 1 apply to this Agreement.
- 1.2 If there is any conflict or inconsistency between the provisions of these Terms and the general terms of the G-15 framework, the general terms of the G-15 framework shall prevail

2. PLATFORM, SUBSCRIPTION AND API

- 2.1 You will ensure that your systems are compliant with the Minimum Technical Requirements in order for us to provide the Service Package.
- 2.2 We may amend or update the Platform, the Technical Documentation and/or the Service Packages from time-to-time provided such amendments do not materially and negatively impact the functionality, performance or security of the Platform. We will inform you of any such amendments.
- 2.3 We may also amend the Platform, the Technical Documentation, the Service Packages, the API and API Documentation and/or the Agreement in order to comply with any applicable laws, guidance, protocols, codes of conduct, regulations, agreements with any Third Parties etc and such changes will take place immediately on written notification to you.
- 2.4 Updates or amendments as aforesaid will be notified to you by any reasonable means and such updates will take place as soon as reasonably practicable after notification. You must ensure that at all times you are using the most up to date version of the Platform. If you do not do so we may not be able to support You (in our sole discretion) and your use of the Platform may be negatively affected.
- 2.5 Subject to your payment of the applicable fees and to the terms of this Agreement, we hereby grant to you a non-exclusive, non-transferable, revocable licence (without the right to grant sub-licences) to:
 - 2.5.1 use and access, and to permit the Authorised Users to use and access, the Platform at <https://web.tendable.com/login> via a supported web browser (as may be determined by us from time to time); and/or
 - 2.5.2 permit Authorised Users to download and use and access the Mobile App on the Authorised User's smartphone and tablet devices,in each case on a software-as-a-service basis, and solely for the Purpose, with effect from the Commencement Date and for the duration of the term of your Service Package. For the avoidance of doubt, the mechanism by which the Platform may be accessed (by supported web browser or Mobile App) will be as specified in the Technical Documentation.

ACCESS TO AND USE OF API

- 2.6 If included in the relevant Service Package you have purchased from us, and subject to your payment of the Subscription Fee and any applicable One Off Fees, and to the other terms and conditions of the Agreement, we will provide you access to the API. We hereby grant to you a limited, non-exclusive, non-transferable, non-sublicensable, revocable licence to use the API and the API Documentation during the term of the Agreement strictly as required to: (1) complete and maintain the Integration (as defined below); and (2) following successful completion of the Integration (in accordance with Clause 4.8 below), to perform the downloading and uploading tasks described in clause 3.9 below. For the avoidance of doubt, only certain Customer nominated Authorised Users will be provided with access to the API in order to perform the Integration.
- 2.7 You will provide the Authorised Users and Tendable Leads, with the software required and undertake all software integration work required to ensure that: (i) the Platform is fully integrated with the relevant Third Party Software in accordance with the API Documentation and any reasonable instructions from us; (ii) You can utilise the API; and (iii) the Third Party Software communicates effectively with the Platform ((i), (ii) and (iii) together, the "**Integration**").
- 2.8 Without prejudice to your responsibility for the Integration referred to above, you will comply with the API Documentation in connection with the Integration and use of the API. Following the Integration, you will be able to download Customer Data only from the Platform and only in the format set out in the API Documentation, and upload it into the relevant, integrated Third Party Software. You acknowledge and agree that the use of the Platform for the purposes described in this Clause 4.9 is subject to the You completing and maintaining the Integration at all times and keeping it updated following any instruction we may give to You.
- 2.9 We may amend and/or update the API and/or the API Documentation from time-to-time in our absolute discretion. We will inform you of such amendments and give you reasonable notice of such amendments, however you acknowledge that, in some cases, it may be necessary for us to make emergency changes to the API with little or no prior notice to you. Any such amendments will be documented and notified to you in writing, including any necessary changes to the Agreement and Subscription charges in order to implement such amendments. You undertake to:
- 2.9.1 ensure that it at all times You are using the most up to date API and/or Platform. If you do not implement such updates to our Platform, API and API Documentation, we may not be able to support you (in our sole discretion) and your use of the Platform may be negatively affected; and
 - 2.9.2 upgrade the relevant Third Party Software as and when may be necessary, at your cost, to accommodate any such amendments and/or updates, to ensure that the relevant Third Party Software remains operable and Integrated with the API and/or Platform and can communicate effectively with the Platform.
- 2.10 We, and our licensors will have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Platform or the API any enhancement requests or feedback provided by you and any Authorised Users, so long as you are not identified in any way as the source of such feedback. For the avoidance of doubt, we will anonymise any such information if used. We likewise will not be obliged to implement any such enhancement requests or feedback.

3. LIMITED WARRANTY

- 3.1 We warrant that, during the term of your contract with us, the Platform will perform materially in accordance with the Technical Documentation and Service Packages you have purchased;.
- 3.2 If we fail to comply with the warranty at Clause 5.1, we will use our reasonable endeavours to rectify and repair such failure on becoming aware of it, in accordance with the response times in the Service Level Agreement, in Schedule 2. The warranty at Clause 5.1 will not apply to the extent of any non-

conformance, including unavailability, which is caused by: (a) your breach of the Agreement; (b) use of the Platform and/ or APO contrary to our instructions; (c) use of the Platform for any purpose other than the Purpose; or (d) modification or alteration of the Platform by any party other than us or our authorised Supplier Personnel.

3.3 You acknowledge that we and/or the Supplier Personnel may from time to time carry out routine and emergency maintenance of the Platform and/or the API. During this time you may be unable to access the Platform and/or the API, but we will use our reasonable endeavours to keep disruption to, and unavailability of, the Platform and/or the API to a minimum.

3.4 You acknowledge that we have no direct control over the availability of bandwidth over the entirety of the internet and that, while we will use such endeavours as we deem appropriate to facilitate the Platform and the API, we will not be responsible for delays caused by such unavailability.

3.5 Except as expressly provided in the Agreement, the Platform, the API and the Information are provided "as is" and, to the extent permitted by law, we disclaim all other conditions, warranties, representations, undertakings or other terms which might have effect between the parties with respect to the Platform, the API and the Information, or be implied or incorporated into the Agreement, whether by statute, common law, custom or otherwise, including any implied conditions, warranties, undertakings or other terms relating to satisfactory quality, reasonable skill and care, fitness for any particular purpose, ability to achieve a particular result or arising from course of dealing or usage of trade. We do not warrant anything in relation to systems that do not make up the Platform, the API or the connection to those systems (including, for the avoidance of doubt, the Third Party Software).

SUPPORT

3.6 Subject to the terms of the Agreement, we will provide support services for the Platform and/or the API in accordance with the relevant Services Package you have purchased, and the Service Level Agreement.

3.7 Our support is not a substitute for training and you must ensure that you will provide appropriate training to your Authorised Users to educate them in how to use the Platform in accordance with the Agreement, the Technical Documentation and the specifications in the relevant Service Package. If you or your Authorised Users require additional training, over and above what is included in the Service Package, we will scope and agree this with you in writing including any One-Off Fee that may be applicable.

3.8 Either on signature of the Order Form, or at latest within one month of the Commencement Date, you will nominate 3 "Tendable Leads" from amongst your Authorised Users and notify them to us in writing from time to time. The Tendable Leads, will be the only contacts who may access the Tendable Support Desk to request assistance in order to resolve issues with your use of the Platform (and the API, where applicable). All Authorised Users' support queries must be channelled through the Tendable Leads, who will provide an initial triage for the queries and will act as liaison between the Authorised Users' queries and us. If it this is not adhered to, we may (i) increase the price of your Service Package to reflect the increased cost of administration of queries; (ii) require you to purchase a training module for your Authorised Users, for an additional One-Off Fee or (iii) refuse to respond to requests for assistance from your staff who are not Tendable Leads.

4. DISCLAIMERS

4.1 You acknowledge that the Information should be used for your Purposes only. Any Information generated by the Platform is not intended to, and should not be construed as, constituting any medical, healthcare or other advice of any kind.

4.2 Nothing in the Agreement, or in your or your Authorised User's use of the Platform, will constitute medical or healthcare advice, or any other professional advice outside of support for your use of the Platform. You assume all risks in acting upon any of the Information made available or produced during your access

and use of the Platform. Under no circumstances will we or any Supplier Personnel have any responsibility or liability for any decisions or advice, or any calculations arrived at when using or relying on any Information. Accordingly, you acknowledge and agree that you assume sole responsibility for results obtained from your access and use of the Platform and any Information and for conclusions drawn from such access and use.

4.3 We do not warrant, represent, undertake or agree that: (a) the use of the Platform, the API and/or the API Documentation by you or your Authorised Users will meet the your requirements nor that any recommendations derived from use of the Platform will deliver any particular benefits if implemented; (b) that the Information is complete, accurate or error-free; (c) defects in the Platform or the API will be corrected; or (d) the functions of the Platform or the API will operate in the combinations which You select for use. Under no circumstances will we or the Supplier Personnel have any liability for any losses, claims, damages, costs or expenses caused by errors or omissions in any information, instructions or scripts provided to us and/or the Supplier Personnel by or on your behalf in connection with the Platform, or any actions taken by us and/or the Supplier Personnel at the your 'direction.

5. RESTRICTIONS

5.1 In relation to the Platform and the API:

5.1.1 You will not (and will ensure that your Authorised Users do not):

- 5.1.1.1 store, distribute or transmit any Virus, or any material, information or data through the Platform and/or the API that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
- 5.1.1.2 use the Platform or API to collect or store any information (including notes, comments, images or any other content) which might infringe any patient's privacy or dignity;
- 5.1.1.3 use the Platform or API to collect or store any information (including notes, comments, images or any other content) from which any patient may be identified, without making use of the Platform and API's available controls, in addition to your own relevant organisational controls, to protect it.
- 5.1.1.4 use the Platform or API in a way that could damage, disable, overburden, impair or compromise the Platform or Supplier's systems or security or interfere with other users;
- 5.1.1.5 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Platform, API, Information, Software, API Documentation, Technical Documentation or Service Packages;
- 5.1.1.6 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, decipher, decompile, reverse assemble, disassemble, translate, reverse engineer or otherwise reduce to derive source code, algorithms, tags, specification, architecture, structure or other elements of the Platform and/or the API;
- 5.1.1.7 interface or connect the API with any computer software or system, save for the Third Party Software, without our the prior written approval;
- 5.1.1.8 access, develop, supply or market all or any part of the Platform or API in order to build a product or service which replicates, competes with or is substantially similar to the Platform;
- 5.1.1.9 attempt to undertake any security testing of the Platform or API without our prior written

consent;

- 5.1.1.10 use the Platform or API to provide services to third parties (including to any of your Affiliates);
 - 5.1.1.11 transfer, temporarily or permanently, any of its rights under the Agreement;
 - 5.1.1.12 assist third parties in obtaining access to the Platform or the API;
 - 5.1.1.13 use or do something in connection with the API, the API Documentation or the Platform, in any way which is not specifically authorised or set out in the Agreement;
 - 5.1.1.14 without limiting the generality of the foregoing, misuse the information in any way or use it in any way that it was not intended.
- 5.1.2 Where you are the licensor of the Third Party Software, you will ensure that the Third Party Software is free from, and will not introduce into the API and/or the Platform, any Virus, including (but not limited to) using up-to-date, industry-standard and comprehensive anti-virus software to seek to prevent the introduction of any Virus into the API;
 - 5.1.3 Where the Third Party Software is licensed to you, you will procure that the third party software licensors licensing the Third Party Software to you will ensure that the Third Party Software is free from, and will not introduce into the API and/or the Platform, any Virus, including (but not limited to) the use of up-to-date, industry-standard and comprehensive anti-virus software to seek to prevent the introduction of any Virus into the API;
 - 5.1.4 You will use your best endeavours to prevent any unauthorised access to, or use of, the Platform and the API and will notify us promptly of any such unauthorised access or use; and
 - 5.1.5 We may audit your compliance with this Clause 5.1 by any lawful, technical means and you will provide all reasonable assistance and information to us as is necessary to establish that the Platform and API are only being accessed and used in accordance with the Agreement.

5.2 You will:

- 5.2.1 provide us with all necessary co-operation in relation to the Agreement and access to such information as may be required by us in order to complete the implementation, provide support services and provide the Platform and the API;
- 5.2.2 where you use the API to Integrate the Platform with the Third-Party Software and request assistance from the Tendable Support Desk to do so, you will provide us with all necessary co-operation and information as is reasonably required by us with respect to such Integration;
- 5.2.3 maintain sufficient licences to any software (from third parties or licensed by us separately to the Agreement) operated using or in conjunction with the Platform or the API;
- 5.2.4 ensure the Authorised Users will maintain adequate internet connections and technical capabilities to access and use the Platform, including complying with the Minimum Technical Requirements. You acknowledge that as between the parties, it is solely responsible for ensuring that its firewalls, security and privacy systems and settings, and other plug-ins or applications, do not interfere with or restrict your, or your Authorised Users', access and use of the Platform and/or the API (as applicable) in accordance with the Agreement, and we and our Supplier Personnel will have no responsibility or liability in relation thereto;
- 5.2.5 where Authorised Users access the Platform via the Mobile App, ensure that the Authorised Users download and install any updates to the Mobile App promptly;
- 5.2.6 provide such personnel assistance as may be reasonably requested by us from time to time including nominating three Tendable Leads who will triage your access to the Tendable Help

Desk;

- 5.2.7 comply with all applicable laws, regulations, codes of practice, guidance, and regulatory bodies with respect to its activities under the Agreement;
- 5.2.8 carry out all of your other responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed by the parties, we may adjust any timetable or delivery schedule set out in the Agreement as reasonably necessary; and
- 5.2.9 before you use any updates to any Third Party Software in a live environment, carry out testing updates to any Third Party Software to its satisfaction, to ensure that such updates meet your' own requirements without causing any issues with your 'use of the Platform or the API or the Integration.

6. AUTHORISED USERS AND USAGE RIGHTS

6.1 In relation to Authorised Users, you will:

- 6.1.1 ensure that your Authorised Users comply with the terms of the Agreement, and you will be responsible for any acts and omissions of the Authorised User as if committed by you;
- 6.1.2 maintain a written, up to date list of current Authorised Users and provide an initial such list to us one signature of the Order form or latest, within one month of the Commencement Date and thereafter provide us with written updates to the Authorised User list if it changes at any time during the term;
- 6.1.3 ensure that each Authorised User:
 - a) keeps any password(s) for their use of the Platform (and, where they have access to the API, the API) secure and confidential and changes any password(s) promptly if they know or suspect that they have been compromised;
 - a) is required to comply with a password policy which tells users: (i) how to avoid choosing obvious passwords; (ii) not to choose common passwords; (iii) not to use the same password anywhere else, at work or at home; and (iv) where and how they may record passwords to store and retrieve them securely – for example, in a sealed envelope in a secure cupboard;
 - b) changes any password(s) at least once every ninety (90) days; and
 - c) does not share their password(s) to allow any other employees, contractors (individuals or otherwise), representatives and agents of yours or any other individual or third party to access the Platform;
- 6.1.4 in respect of any Authorised User, you will not allow any Authorised User account to be used by more than one (1) individual Authorised User;
- 6.1.5 if an Authorised User leaves your employment or engagement or where the employment or engagement of an Authorised User is transferred such that you do not intend for them to have access to the Platform, you will promptly inform us so that we may disable that individual's passwords (which the we will do as soon as possible, but within a reasonable period of time) and you must comply with any subsequent process which will control Authorised User access; and
- 6.1.6 We may at any time audit the Platform and the API to monitor the use of the API and the Platform to ensure you are complying with the Agreement. Without limiting the foregoing, we may audit the Platform and API to monitor the name and password for each Authorised User and, if the audit reveals that passwords have been provided to individuals who are not Authorised Users,

we may, without prejudice to our other rights: (a) disable such passwords (or require you promptly to disable such passwords) and you will not issue any new passwords to such individuals; and/or (b) charge you additional subscription fees (calculated on a pro-rata basis against your then-current Subscription Fee) if it appears that Authorised Users are accessing and using the Platform outside the scope of the original Order Form.

6.2 If your use of the Platform substantially and/or materially increases after the Commencement Date, including, without limitation, as a result of a merger or acquisition or expansion to areas not agreed in the Order Form, the parties agree to engage the Variation Procedure to agree a change to the fees in line with the published price list.

7. CUSTOMER DATA AND DATA PROTECTION

CUSTOMER DATA

7.1 You will own all rights, title and interest in and to all of your Data and will at all times have sole responsibility for the legality, reliability, integrity, accuracy and quality of your Data and for ensuring that its use does not infringe the rights of any third parties.

7.2 You hereby grants to us and the Supplier Personnel, on and subject to the terms and conditions of the Agreement, a royalty-free, perpetual, irrevocable, non-exclusive, transferable licence to use, reproduce, copy, download, view, modify, publish, edit, translate, distribute, perform and otherwise utilise any content you provide to us through the Platform and the API, and, without limitation, your Data, for the purpose of providing the Platform and making such Customer Data available via the API so that you can perform the downloading and uploading tasks described in Clause 4, and the exercise of our rights under the Agreement (together with the right to sub-licence these rights to its hosting, connectivity and telecommunications service providers to the extent necessarily required for the performance of our obligations) and for any requirements ancillary to the provision of the Platform and the API (including any data analytics generated and service modelling specified in the Technical Documentation and/or Service Packages). You warrant to us that your use of the Customer Data in accordance with the Agreement will not: (a) breach any laws, statutes or regulations; (b) infringe the Intellectual Property Rights or other legal rights of any person; or (c) give rise to any cause of action against us, in each case in any jurisdiction and under any applicable law.

7.3 We will follow routine archiving procedures for Customer Data and will use reasonable endeavours to maintain regular back-ups of the Customer Data. In the event of any loss or damage to Customer Data, your' sole and exclusive remedy will be for us to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data where such back-ups are made by us. We will not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by you, your Authorised Users, the your Affiliates or any third party (except those third parties sub-contracted by us to perform services related to Customer Data hosting and back-up, in which case our liability will be subject to the limitations and exclusions set out in the Agreement, including those set out in this Clause and Clause 12).

7.4 We own and may freely use, in any way we deems fit, any anonymised information that it derives from the Customer Data, or in any anonymised or anonymous information (in the widest sense) obtained by us in connection with the Agreement. Notwithstanding the foregoing, and insofar as it is necessary, you hereby grant to us a non-exclusive, perpetual, sublicensable, worldwide, royalty-free licence to use, copy and aggregate (including with other third party data) any anonymous information (including anonymous information derived from the Customer Data) that is obtained by us in connection with the Agreement, including in connection with your or any Authorised Users' use and access of the Platform (and/or the API as applicable) for its own purposes, including but not limited to testing the Platform

and/or the API, benchmarking and further development of the Platform and/or the API. You agree that we may anonymise personal data derived from your or any Authorised Users' use of the Platform and/or the API (as applicable) in order to use the anonymised data for these purposes or for any other purpose it deems fit.

- 7.5 Each party will at all times comply with good industry practice relating to data protection, and implementation and maintenance of information security policies, processes and (subject to Clause 10.3) back-up systems.

DATA PROTECTION

- 7.6 To the extent that either party processes any personal data provided by the other party in connection with the Agreement, each party will comply with its respective obligations under applicable Data Protection Legislation in relation thereto. Each party agrees that it will comply with the Tendable Privacy Policy found at <https://www.tendable.com/privacy-policy/>. You further acknowledge and agree that Customer Personal Data processed in connection with the Agreement may (if required) be transferred to other jurisdictions, for which we will ensure we have complied with relevant data protection requirements..
- 7.7 To the extent that either party acts as an independent Controller in relation to the processing of such personal data, this clause 10.7 will apply. You will promptly provide us with such reasonable cooperation, information and assistance as we may require from time to time to enable us to comply with our obligations under applicable Data Protection Legislation in relation to any personal data provided to us by you or your Authorised Users.
- 7.8 Without prejudice to the foregoing, to the extent that we act as the Processor and you as the Controller of the Customer Personal Data, each party agrees that it will comply with the Data Processing Terms set out in G-15
- 7.9 The Recipient will protect all Confidential Information which the Discloser provides to it (whether orally, in writing or in any other form) using the same standards as the Recipient applies to its own comparable Confidential Information but in no event less than reasonable measures. The Recipient may only use Confidential Information in connection with the Agreement and to the extent necessary for the purposes of the Agreement. The Recipient may provide its Authorised Users with access to Confidential Information on a strict "need to know" basis only. The Recipient will ensure that each of its Authorised Users are bound to hold all Confidential Information in confidence to the standard required under the Agreement.
- 7.10 The Recipient's confidentiality obligations will not apply to information: (a) already known to it at the time of disclosure without restrictions on disclosure; (b) in the public domain or publicly available other than as a result of a breach of the Agreement; (c) provided to it by a third party who is under no such obligation of confidentiality; or (d) evidenced by contemporaneous written records as independently developed by it. The Recipient may disclose Confidential Information to its legal advisers to protect its own legitimate interests or to comply with any legal or regulatory requirements. If any court, regulatory authority or legal process requires the Recipient to disclose information covered by this confidentiality obligation, then the Recipient may make any such disclosure, provided that the Recipient will, to the extent permitted by law: (a) advise the Discloser promptly of any such requirement; (b) cooperate with the Discloser, at the Discloser's expense, in responding to the requirement; and (c) use all reasonable endeavours to consult with the Discloser with a view to agreeing the timing, manner and extent of the disclosure. If the Recipient is unable to inform the Discloser before the Confidential Information is disclosed, it will (to the extent permitted by law) fully inform the Discloser immediately afterwards in writing of the disclosure and the Confidential Information that was disclosed.
- 7.11 Subject to the confidentiality provisions of this Clause 10, you will not prevent us or any of the Supplier's Affiliates from disclosing the existence of the Agreement, but not the content of the Agreement, for their own marketing purposes.

- 7.12 All Confidential Information will remain the property of the Discloser and the Discloser reserves all rights in its Confidential Information. Nothing in the Agreement or the disclosures envisaged by the Agreement will (except as expressly agreed otherwise in the Agreement) operate to transfer, or operate as a grant of any licences or right to use, to any Intellectual Property Rights in the Confidential Information.
- 7.13 Each party acknowledges that damages alone would not be an adequate remedy in the event of breach by the other party of the provisions of this Clause 10. Accordingly, it is agreed that either party will be entitled, without proof of special damages, to seek an injunction or other interim remedy for any threatened or actual breach of this Clause 10 by the other party, without prejudice to any other rights and remedies which that first party may have.
- 7.14 FOI requests. You acknowledge and agree that, if you receive an information request under the Freedom of Information Act 2000 ("FOIA") in connection with the Agreement, you will promptly notify us of the request and, where the information request refers to Supplier's Confidential Information, you will allow us sufficient time to raise an objection to the extent, type and/or nature of disclosure requested, and will work with us to agree the form and content of disclosure.
- 7.15 This Clause 10 will remain in full force and effect notwithstanding any termination of the Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 You acknowledge and agree that we and our licensors own all Intellectual Property Rights in (without limitation) the Platform, Information, Software, API, API Documentation, the Technical Documentation and relevant specifications in the Service Packages and any other technical specifications comprising the Platform and API, including all subsequent copies of, and modifications, adaptations, amendments and additions to the same regardless of who made them. Except as expressly stated herein, the Agreement will not grant you any rights to, or in, any Intellectual Property Rights in respect to (without limitation) the Platform, API, API Documentation, Information, Software, the Technical Documentation and/or the service specifications in the Service Packages.
- 8.2 You acknowledge that you have no right to have access to the Platform, Software or API in source code form.
- 8.3 You will indemnify, keep indemnified and hold us and the Supplier Personnel harmless against any and all damages, claims, actions, proceedings, losses and reasonable costs (including court and legal fees) and expenses arising from any third party claims or actions arising out of or in connection with your or the Authorised Users' use (or misuse) of the Platform (and/or the API, as applicable) in breach of the Agreement; (ii) any breach of our Intellectual Property Rights .
- 8.4 Subject to the provisions of this Clause 11.2 and Clauses 8.5 to 8.7, we will indemnify you and hold you harmless in respect of all damages and reasonable costs (including court costs and legal fees) and expenses arising directly from an IPR Claim which is valid and enforceable in the legal jurisdiction in which the IPR Claim is commenced provided that:
- 8.4.1 You will give us prompt notice in writing of any actual or threatened IPR Claim;
 - 8.4.2 You will not admit any liability or agree to any settlement or compromise of an IPR Claim without our prior written consent;
 - 8.4.3 We will be entitled at any time to assume exclusive conduct of the IPR Claim (which will include, but not be limited to, the exclusive right to conduct any proceedings or action, negotiate the settlement of the IPR Claim and to conduct all discussions and dispute resolution efforts in connection with the IPR Claim);
 - 8.4.4 You will, at our request, and reasonable cost and expense, give us all reasonable assistance, information and authority and acts in accordance with our instructions, in connection with the

conduct of the IPR Claim (including taking such steps as is necessary to enable us to assume conduct of the IPR Claim pursuant to Clause 11.3.3); and

- 8.4.5 You take all reasonable steps to mitigate any liabilities which are the subject of the indemnity in this Clause 11.3.

8.5 If any IPR Claim is made, or in our reasonable opinion is likely to be made, against you, we may at our option and expense:

- 8.5.1 obtain for you the right to continue using the Platform or the API (as applicable) in the manner permitted under the Agreement; or
- 8.5.2 modify or replace the infringing part of the Platform or the API (as applicable) so as to avoid the infringement or alleged infringement, but in such a way that does not materially adversely affect the functionality of the Platform or the API (as applicable); or
- 8.5.3 terminate the Agreement immediately on notice to you and provide a pro rata refund of prepaid but unused Subscription Fee (and One-Off Fees, where applicable).

8.6 Under no circumstances will we or any Supplier Personnel be liable to you under Clause 11.2 or 11.3 (or otherwise) to the extent that the infringement (whether actual or threatened) is based on:

- 8.6.1 any changes, modifications, updates or enhancements made to the Platform and/or the API other than by us or the Supplier Personnel;
- 8.6.2 any use of the Platform and/or the API by you or your Authorised Users in a manner contrary to our instructions, Technical Documentation and/or in breach of the Agreement;
- 8.6.3 Your or your Authorised Users' use of the Platform (and/or the API as applicable) after notice or becoming aware of the actual or threatened IPR Claim;
- 8.6.4 a specific design, feature or modification provided by us at your request;
- 8.6.5 the use of the Platform or API in combination with any other products or services or items not supplied by us; or
- 8.6.6 Your wilful misconduct or negligence.

8.7 The provisions of Clauses 11.3 to 8.6 inclusive state our entire liability to you in connection with an IPR Claim and will be your sole and exclusive remedy in that regard.

9. LIMITATION OF LIABILITY

9.1 Nothing in the Agreement excludes or limits the liability of either party to the other for:

- 12.1.1 death or personal injury caused by negligence;
- 12.1.2 fraud or fraudulent misrepresentation by it or its employees; or
- 12.1.3 any other liability that cannot be excluded or limited by law.

9.2 Subject to Clause 12.1, we and/or the Supplier Personnel will not be liable whether in tort (including for negligence), breach of statutory duty, contract, misrepresentation (whether innocent or negligent), restitution or otherwise for:

- 9.2.1 any loss of profits, loss of business, loss of savings, depletion of goodwill and/or similar losses, or pure economic loss or (subject to Clause 10.3) any loss of corruption of data or information (regardless of whether these types of loss or damage are direct, indirect or consequential); or
- 9.2.2 any special, indirect or consequential loss or damage whatsoever,

in each case however arising under or in connection with the Agreement and even if we and/or the

Supplier Personnel were aware of the possibility that such loss or damage might be incurred.

9.3 Subject to Clauses 12.1 and 12.2, our total aggregate liability taken together of us and the Supplier Personnel in respect of any and all causes of action arising in each Year under or in relation to the Agreement, whether arising in contract (including under any indemnities), tort (including negligence), breach of statutory duty, misrepresentation (whether innocent or negligent), restitution or otherwise, will in no event exceed the aggregate value of the Subscription Fee and One-Off Fees paid or payable by you to us under the Agreement during the relevant Year in which the cause or causes of action arose (or, if no Subscription Fee and/or One-Off Fees have been paid or are payable by you to us under the Agreement in a Year, the aggregate value of the Subscription Fee and One-Off Fees paid by you to us under the Agreement in the last Year of the Term in which a Subscription Fee was paid by you).

9.4 For the purposes of calculating liability pursuant to Clause 12.3, where a cause of action arises in a Year and continues across subsequent Years and/or continues after the termination of the Agreement, then the cause of action will be deemed to have arisen only in the Year in which such cause of action first arose.

10. TERM, TERMINATION AND SUSPENSION

10.1 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

10.1.1 the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than fourteen (14) days after being notified in writing to make such payment;

10.1.2 the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or

10.1.3 the other party suffers an Insolvency Event.

10.2 Without prejudice to any other remedy or claim that we may have available to us in relation to any breach of your obligations,

10.2.1 We may terminate the Agreement with immediate effect by giving written notice to you if you develop a product or service which replicates, competes with or is substantially similar to the Platform; or

10.2.2 You may terminate the Agreement with immediate effect by giving written notice to us if the we fail to achieve 98.0% availability (as calculated in accordance with the provisions of the Service Level Agreement) of the Platform in each of the three consecutive Monthly Measurement periods in any Quarter.

10.2.3 You may terminate the Agreement in the circumstances set out in Clause 16.4 (Variation) below.

10.3 Without affecting any other right, remedy or claim, if a Force Majeure Event causing delay or non-performance persists for three (3) months or more, either party may terminate the Agreement by giving thirty (30) days' written notice to the other party.

10.4 On termination of the Agreement for any reason:

10.4.1 all licences granted under the Agreement will immediately terminate and you and the Authorised Users will immediately cease all use of the Platform, the API and API Documentation. For the avoidance of doubt and notwithstanding the foregoing, any licenses granted under the Agreement which are stated to be granted on a perpetual and irrevocable basis will survive the termination of the Agreement and will continue in full force and effect;

- 10.4.2 we may immediately end your and the Authorised Users' use of and access to the Platform and/or the API;
 - 10.4.3 You will immediately pay all sums and amounts payable to us under the terms of the Agreement;
 - 10.4.4 except to the extent permitted by the Agreement and subject to clause 13.4.5, each party will return or destroy, and (in each case) make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party, including the other party's Confidential Information (except we may retain any anonymized data it may have developed arising from your Personal Data or Information, and reasonable professional records of you and your Authorised Users' use of the Platform and the API and will be entitled to retain your Confidential Information for the purposes of internal audit, litigation and/or to comply with applicable laws);
 - 10.4.5 upon your written request within thirty (30) days of termination of the Agreement, we will provide you with a copy of the Customer Data in a format to be agreed between the parties. Any other arrangements in respect of the return of the Customer Data will be subject to additional charges. We may destroy or otherwise dispose of any of the Customer Data in its possession at any point thirty (30) days or more after termination of the Agreement;
 - 10.4.6 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination will not be affected or prejudiced; and
 - 10.4.7 any provisions which are necessary for the interpretation or enforcement of the Agreement will continue in force notwithstanding termination.
- 10.5 Without affecting our other rights and remedies (including the right to terminate the Agreement), we may suspend your, and your Authorised Users', right to access the Platform or use any portion or all of the Platform and/or the API and API Documentation (as applicable) immediately upon notice to you if we determine acting reasonably:
- 10.5.1 that your (or an Authorised User's) use of or access to the Platform and/or the API (a) poses a security risk to us, the Platform or any third party; (b) may adversely impact availability or performance of the Platform, the API, the Software or the systems or software of any other of our customers; (c) may subject us or any third party to any liability; or (d) may be fraudulent; or
 - 10.5.2 that you, or any Authorised User, is in breach of the Agreement or any other agreement by which software being used on or in conjunction with the Platform is licensed; and
 - 10.5.3 we will reinstate the suspended Platform and/or API once it has established the cause of the suspension has been remedied or ceased to exist. Where the cause of the suspension persists for more than thirty (30) days, we may immediately terminate the Agreement without incurring any liability to you.

Schedule 1 – Definitions and Interpretation

1. DEFINITIONS

1.1 The following definitions apply in the Agreement:

Word/phrase	Meaning
Affiliate	in respect of a party, any entity that from time to time, directly or indirectly, Controls, is Controlled by, or is under common Control with that party and any other entity agreed in writing by the parties as being an Affiliate in respect of either party.
Agreement	Comprises the Order Form, the G-15 call off contract between the customer and Tendable, these Terms and conditions including its schedules, and any other applicable service specifications in the Service Packages and any Technical Documentation which shall be included in the G-15 call off contract.
API	means the application programming interface provided by the Supplier to the Customer for the purposes of enabling the Platform to be integrated into the Third Party Software in accordance with the terms of the Agreement.
API Documentation	the Supplier's API integration and user guides and Software Developer Kits made available by the Supplier for the purposes of (subject to the Customer complying with its obligations under the Agreement) facilitating the integration of the Platform with the Third Party Software, as amended from time to time
Authorised Users	the individual employees, agents or contractors of the Customer specifies at commencement of the Agreement and updated from time to time who are authorized by the Customer to access and use the Platform on behalf and for the benefit of the Customer in accordance with the terms of the Agreement.
Bribery Laws	means the Bribery Act 2010 (and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010) and all other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to bribery or corruption, and any similar or equivalent laws in any other relevant jurisdiction.
Business Day	any day which is not a Saturday, Sunday or public holiday in London.
Commencement Date	the commencement date set out in the Agreement.
Confidential Information	any and all information or data, in whatever form or storage medium, whether tangible or intangible, and whether disclosed directly or indirectly before or after the Agreement by or on behalf of the Discloser to the Recipient in writing,

orally, through visual means, or by the Recipient's evaluation, observation, analysis, inspection or other study of such information, data or knowledge, which is now or at any time after the date of The Agreement, owned or controlled by the Discloser. Confidential Information shall include trade secrets, discoveries, knowhow, designs, specifications, drawings, present or future products or services (including the provision of the Platform and the API), inventions, prototypes, algorithms, software of any kind or nature, including, but not limited to the Software, object or machine codes, source codes (whether revealed in the provision of the Platform or the API or disclosed by other means), computer models and applications, developments, processes, formulae, technology, engineering, architectures, hardware configuration information, diagrams, data, computer programs, business activities and operations, customer lists, reports, studies and other technical and business information and any other information which, by its nature, would reasonably be considered to be of a confidential nature either intrinsically or due to the context and circumstances in which it was disclosed, including, for the avoidance of doubt, information concerning the parties' customers, which is of a confidential nature, and the terms of the Agreement. The parties agree that the Information is the Supplier's Confidential Information. For the avoidance of doubt, the API Documentation is the Supplier's Confidential Information.

Control	(a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to (i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that party; (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of that party; or (iii) give directions with respect to the operating and financial policies of the relevant party with which the directors or other equivalent officers of that party are obliged to comply; or (b) the holding beneficially of more than 50 per cent of the issued share capital of the relevant party (excluding any part of that issued share capital that carries no right to participate, or no right to participate beyond a specified amount, in a distribution of either profits or capital).
Controller	has the meaning given to it in Data Protection Legislation.
Customer Data	any data transferred to the Supplier by the Customer or any Authorised User for input into the Platform including any such data accessed by the API in accordance with the terms of the Agreement.
Customer Personal Data	Personal Data of Authorised Users.
Customer Purchase Order Number or PO	If required, the relevant reference from the Customer for the Supplier to add to invoices
Data Protection Legislation	(a) the General Data Protection Regulation ((EU) 2016/679) (" EU GDPR "); (b) the UK GDPR (being the EU GDPR as saved into United Kingdom Law by virtue of Section 3 of the United Kingdom's European Union (Withdrawal)

	Act 2018 (c) The Data Protection Act 2018 (“DPA 2018”) (d) any national data protection laws made under them, or which implement them including, without limitation, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and any legislation and/or regulation implementing or made pursuant to them; and (e) Any laws which amend, extend, replace, re-enacts or consolidates any of the foregoing (f) all other applicable laws relating to processing of personal data and privacy that may exist in any relevant jurisdiction.
Data Protection Supervisory Authority	means any regulator, authority or body responsible for administering Data Protection Legislation
Data Subject	has the meaning given in Data Protection Legislation.
Discloser	a party disclosing its Confidential Information to the Recipient, which in the case of the Customer may be the Customer and/or the Authorised Users.
G-15	The Crown Commercial Service G-Cloud 15 framework terms and conditions
Force Majeure Event	events, circumstances or causes beyond the Supplier’s reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network or the internet, a virus, act of God, war, riot, civil commotion, malicious attack or damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, uncontrollable default of suppliers or sub-contractors, pandemic or epidemic.
Insolvency Event	the occurrence of any one or more of the following events in relation to a party: (a) the party becomes unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), admits its inability to pay its debts or becomes insolvent; (b) a petition is presented, an order made or a resolution passed for the liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution of the party; (c) an administrative or other receiver, manager, trustee, liquidator, administrator or similar person or officer is appointed to the party and/or over all or any part of the assets of the party; (d) the party enters into or proposes any composition or arrangement concerning its debts with its creditors (or any class of its creditors) generally; or (e) anything equivalent to any of the events or circumstances listed in limbs (a) to (d) (inclusive) occurs in any applicable jurisdiction.

Information	means all data, records, reports, results, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other outputs or materials in whatever form, including but not limited to hard copy and electronic form, generated by or on behalf of the Supplier in the performance of the Agreement and made available under or in connection with the Agreement (including the provision of the Platform and the API).
Initial Term	the initial term set out in the Order Form..
Integration	the Customer's obligation to integrate the Third Party Software so that the Customer is able to use the Platform, as defined in Clause 4.9 .
Intellectual Property Rights (IPR)	(a) patents, inventions, designs, copyright and related rights, database rights, knowhow and Confidential Information, trade marks (whether registered or unregistered) and related goodwill, trade names (whether registered or unregistered), and rights to apply for registration; (b) all other rights of a similar nature or having an equivalent effect anywhere in the world which currently exist or are recognised in the future; and (c) all applications, extensions and renewals in relation to any such rights.
IPR Claim	any claim or action against the Customer by any third party that the use of the Platform (or any part of the Platform) and/or the API by the Customer or its Authorised Users in accordance with the terms of The Agreement, infringes the copyright of that third party.
Material Change	means a change to any of these Terms and Conditions and any terms linked to within that, in the reasonable opinion of Supplier would be likely to be detrimental to the Customer's use of the Platform, or to the Platform's efficacy.
Mobile App	means the Tendable iOS or Android application which is made available through the Google Play Store, Apple App Store or enterprise distribution to be used by Authorised Users to access the Platform in accordance with the terms of the Agreement.
Monthly Measurement Period	means each period of a calendar month starting on the Commencement Date and every monthly recurrence of that date.
Minimum Technical Requirements	the minimum technical requirements the Customer is required to meet in order to enable its Authorised Users to access and use the Platform in accordance with the system requirements detailed in the G-15 submission.
One Off Fees	means any additional fees identified in the Order Form or agreed in writing during the Term from time to time for additional agreed one-off services .
Order Form	The order form in the G-15 call off contract containing the variable details of the Agreement, including links to the relevant Service Package the Customer has purchased from the Supplier, the annual Subscription Fee and any One-Off fees.

party	a party to The Agreement (and “ parties ” shall be construed accordingly).
Personal Data	has the meaning given in Data Protection Legislation.
Platform	the software-as-a-service (SaaS) solution that the Supplier provides to the Customer via the Mobile App or Website pursuant to The Agreement.
Processor	has the meaning given in Data Protection Legislation.
Processing	has the meaning given in Data Protection Legislation.
Purpose	means the Customer’s purpose for acquiring access to the Platform), as set out in the Order Form.
Quarter	means a period comprising three consecutive calendar months ending on the last day of March, June, September and December of a calendar year.
Recipient	a party receiving Confidential Information from the Discloser, which in the case of the Supplier may be the Supplier and/or the Supplier’s Affiliates, as relevant.
Sales Tax	any applicable national, federal, state and local sales, use, value added, excise and other similar taxes, fees and surcharges that are legally or by custom borne by a purchaser of goods or services.
Service/s	The services and support comprising each Service Package individually or together as the case may be.
Service Commencement Date	if different from the Commencement Date, the date that the relevant Service Package will commence as set out in the Order Form.
Service Level Agreement or SLA	the document setting out the service standards and response times which the Supplier will deliver to you as part of the Service Package, which is in Schedule 2 to these Terms .
Service Package	The Service Package, as defined in the G15 submission. setting out a description of the relevant Services and support which is available via the Platform, which you have chosen to purchase, as set out in the Order Form
Software	the software used by the Supplier and/or any the Supplier Affiliates or sub-contractors in delivering the Platform.
Subscription Fee	the subscription fee, and any other fees payable under or in connection with the Agreement by the Customer to the Supplier for the provision of the relevant Service Package specified in the Order Form (including the Platform and/or the API as may be amended from time to time in accordance with the Agreement.
Supplier Personnel	the Supplier’s Affiliates and the Supplier’s and its Affiliates’ employees, directors, officers, agents and subcontractors.

Technical Documentation	The technical specifications and requirements for the Platform and/or the API setting out (amongst other things) a description of the operation and functioning of the Platform, and the Supplier's processes and procedures for maintaining or amending the security, availability and performance of the Platform, as updated by the Supplier from time to time, which are found on the Website.
Tendable Leads	The 3 nominated Authorised Users of the Customer who will triage Customer requests for the Tendable help desk as set out in Clause 3.8
Term	The term of the contract as defined by the G-15 order form.
Third Party Software	the third party software that can be integrated with the Platform as identified in the API Documentation.
Variation Procedure	The variation procedure set out in Clause 16 of this Agreement
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices.
Website	means the Supplier website at https://www.tendable.com which may be used by Authorised Users to access the Platform, these Terms, the specifications for the Service Packages and the Technical Documentation.
Year	the period of twelve (12) months commencing on the Commencement Date, and each and any period of twelve (12) months commencing on an anniversary of the Commencement Date subsequent thereto.

Schedule 2 - Service Level Agreement

1. Supplier's commitments

- 1.1. We will provide the services and support to the levels defined in this SLA.
- 1.2. Subject to **paragraph 3 (Maintenance and other Exceptions)** below, we will meet and if possible, exceed, the Service Levels.
- 1.3. We will endeavour to provide the Response and Resolution Times to your requests for support but in any event we commit to clear communication with you about the progress of your support requests.
- 1.4. Other than where there is a need for emergency maintenance, we will endeavour to provide at least 7 calendar days' notice of any planned maintenance activities which may affect availability of the Platform.
- 1.5. We will monitor our performance as an organisation against the Service Levels and against the Response and Resolution Times and shall prepare and submit to you regular reports showing our performance against the Service Levels and the Response and Resolution Times of the previous month(s).
- 1.6. We will meet with your Customer Representative every six months to review usage, issues and results and to formulate action plans for any issues that we agree need addressing.
- 1.7. We will maintain the data centre and security standards and certification as set out in our Technical Documentation as follows:
 - 1.7.1. Security and anti-virus patching: We monitor systems and apply security and anti-virus updates in line with guidance from relevant software vendors. Where such security efforts lead to planned or emergency downtime, we will endeavour to notify you at least 7 calendar days before hand but if possible we will seek to shorten that time to at least 48 hours in advance of planned unavailability;
 - 1.7.2. Penetration testing: We perform penetration tests at least annually on all Tendable System Components.

2. Customer Responsibilities

- 2.1. You will ensure that you meet the Minimum Technical Requirements.
- 2.2. You will use the Service Package and our Platform in the way intended.
- 2.3. You will appoint and notify us of three named Tendable Leads from amongst your Authorised Users on or as soon as possible after the Commencement Date, who will be our main contacts and who will triage all service requests before submission to us.
- 2.4. You will provide us with all information about any service request to allow us to diagnose and resolve your requests for our attention in a timely and efficient manner. If we need further information, you will provide such information as soon as possible after our request for it.
- 2.5. You will devote sufficient time and resources to test and approve any system configuration changes we make on your behalf
- 2.6. You will appoint a customer representative who will be responsible for commercial issues and who will meet every 6 months with us to review performance of the service including the measures in this SLA.

3. Maintenance and other exceptions

- 3.1. We will not be liable in respect of any downtime or unavailability of the Platform or for failure to provide the Service Packages to the Service Levels if, and to the extent that, such failure is attributable (whether in whole or in part) to any of the following:
 - 3.1.1. Any outage due to emergency maintenance, or routine or planned maintenance or security or virus patching performed by us in accordance with this SLA and the Technical Documentation;
 - 3.1.2. Downtime agreed with you or your agents or Authorised Users to allow for system reconfiguration or other adjustment to suit your requirements;
 - 3.1.3. Your acts or omissions, or that of your agents or Authorised Users (including but not limited to):

- 3.1.4. not following communicated instructions from us to upgrade Tendable System Components;
- 3.1.5. issues associated with you or your Authorised Users' computing devices, local area networks, equipment, software, Third Party Software, firmware or hardware or facilities, internet service provider connections, or bandwidth limitations outside of our own network;
- 3.1.6. Your failure to comply with any of your Customer Responsibilities in this SLA or any of the Customer obligations in the Agreement, or any of your acts or omissions or those of your Authorised Users or agents which has an impact on our provision of the Service Packages or the Platform.
- 3.1.7. General outage on the Google Cloud Platform (GCP)
- 3.1.8. Malicious attacks on the Platform;
- 3.1.9. Force Majeure events.

4. Service Credits

- 4.1. Subject to Paragraph 5 above, if we fail to meet a Service Level, your sole and exclusive remedy for breach of this obligation shall be for the Supplier to provide a Service Credit against the Subscription Fees in respect of the Monthly Measurement Period in which the breach occurred in accordance with the provisions of this paragraph 4.
- 4.2. Where availability of Platform and/or any relevant Tendable System Component falls below the uptime commitment in **Paragraph 5 (Service levels for Service Credits)** , provided that the Customer is contracted to use that System Component and you are actively using it for the full month during which availability falls below the uptime commitment.
- 4.3. Where availability in any one monthly meets or exceeds the target level of 99.9% (ninety-nine-point-nine percent), no service credits will apply to that month.
- 4.4. Where availability falls below 99.9% in only one month in a Contract Year then no Service Credits will be applicable.
- 4.5. Where availability in any second or subsequent month in a Contract Year falls below 99.9% (ninety-nine-point nine percent) then the customer will be entitled to apply for a service credit to the value of 10% of that month's pro rata Subscription Fees.
- 4.6. Where availability in any second or subsequent month in a Contract Year falls below 99% (ninety-nine percent), the Customer will be entitled to apply for a service credit to the value of 15% of each such calendar month's pro rata Subscription Fees.
- 4.7. Service Credits shall be added up and applied once in a calendar year as a deduction against the Customer's next annual invoice for Subscription Fees or, if there are insufficient Subscription Fees from which to deduct, it shall be paid to the Customer within 30 days of the end of the calendar year in which the Service Credits accrued.
- 4.8. The aggregate amount of all Service Credits credited (and/or paid) to the Customer with respect to all Service Level defaults occurring in a Contract Year under this Agreement shall be capped and shall not exceed 15% of the annual Subscription Fees for that Contract Year.
- 4.9. The Supplier shall not charge the Customer for any work carried out by it in connection with remedying a Service Level default.
- 4.10. Where a sum is expressed to be payable as a Service Credit the parties agree that:
 - 4.10.1. the Customer has a legitimate interest in ensuring that it can recover losses suffered as a result of the Supplier's failure to meet the relevant Service Level; and
 - 4.10.2. the Service Credits set out in this Agreement are not out of all proportion to such interest.
 - 4.10.3. Any Service Credits that are deducted and/or paid are not to be taken into account for the purposes of the limitation of liability provisions in the Agreement.

5. Service Levels for Service Credits

5.1. System Availability – Uptime

For the purpose of availability and performance monitoring, the Platform is split into three component parts:

- Mobile application
- Web Portal
- Public API

5.2. Tendable System Components

Availability of each component will be measured independently by us as an organisation across all our Customers. Any commitment made here to uptime and associated compensation for failure to meet targets, will apply only to those Customers licensed to use, and actively using, the relevant Tendable System Component that is affected.

5.3. Uptime commitment

Subject to the terms of this SLA (in particular Paragraph 5 (Exceptions)), each component of the Tendable system will have 99.9% availability 24/7, in each calendar month.

We calculate the Availability of each component according to the following formula:

$$\text{Availability} = (\text{TMA}/\text{TMM}) \times 100$$

TMA = Total Minutes (in the month) Available | TMM = Total Minutes in Month

A component is considered 'unavailable' when it is unable to connect to the applicable Tendable server and/or does not function due to critical fault in its internal operation.

6. Response and Resolution times

6.1. Support hours

- 6.1.1. Tendable Service Support operates on Business Days only. All response times outlined here are within business hours in a Business Day.
- 6.1.2. Where an issue or request is submitted outside of these hours, the response time will be calculated from the start of the next Business Day
- 6.1.3. Where an issue or request is submitted within these hours but the response time period extends after-hours, the response time calculation will be paused at the end of the Business Day and restarted at the beginning of the next Business Day.

6.2. Response times:

Priority	Definition	Response time	Action
Urgent /Critical	A critical issue preventing all normal use of any Tendable System Component	2 hours	The issue will be immediately assessed and worked on with all reasonable speed. You will be kept advised of fix timelines daily or on request until a resolution is found
High	An urgent requirement or significant issue that prevents a large section of users in their normal use of any Tendable system component	4 hours	The issue will be immediately assessed and scheduled into our next reasonable window of development

Medium	An issue preventing niche uses of the system or routine request for information / set-up changes	8 hours	The issue will be assessed within five working days – Information or configuration requests will be completed within five working days. Requests requiring further development will be funnelled into our wider product pipeline
Low	A cosmetic issue or general feature request	8 hours	The issue will be assessed within five working days and fed back to our Product team for review

6.3. Resolution times

We aim to resolve issues as quickly as possible, to ensure continued and effective use of the system by all customers. This requires that we prioritise more severe issues so that resolution of these is accelerated. We aim for the following timeframes:

Urgency	Definition	Resolution time	Action
Urgent/ Critical	A critical issue preventing all normal use of any Tendable system component, or one that has a material impact on the ability of users to perform normal functions on the system	24 -72 hours, depending upon user impact	The issue will be immediately assessed and worked on with all reasonable speed
High	An issue affecting use of non-core system functions, where a workaround is not available and has a widespread impact on normal use of the service	1-2 weeks, depending upon user impact	The issue will be immediately assessed and scheduled into our next reasonable window of development
Medium	An issue affecting use of non-core functions of the system, where a workaround is available and/or where few users are affected	1-4 weeks, depending upon user impact	The issue will be assessed within five working days and scheduled into an appropriate development window
Low	A cosmetic issue or general feature request	No formal commitment; assessed case-by-case	The issue will be assessed within five working days and fed back to our Product team for review